IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10160 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DHANANJAY NATWARLAL BUCH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 10160 of 1993

MR HJ NANAVATI for Petitioner No. 1

Mr. LR Poojari, AGP for Respondent No. 1,4

RULE SERVED for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 25/03/2004

ORAL JUDGEMENT

Heard Mr. HJ Nanavati, ld. advocate on behalf of the petitioner and Shri Poojari, ld. AGP on behalf of respondents No. 1 and 4. In the present Special Civil Application filed under Article 226 of the Constitution of India the petitioner has challenged the legality and

validity of the order dated 10th August 1993 passed by the Deputy Secretary, Labour and Employment Department of the Government of Gujarat whereby the exemption granted in favour of the petitioner from appearing in "Pre-Service Examination" came to be withdrawn. This Court, while admitting the present Special Civil Application, has granted interim relief on 12th August 1994 staying further implementation and operation of the impugned order by which the exemption was withdrawn. It is the case of the petitioner that the petitioner who was serving as a Presiding Officer in the Labour Court was granted the exemption from appearing in "Pre-service Examination" by Resolution dated 13th May 1991. That the said Resolution was issued by virtue of operation of Rule 3 of the Examination Rules. It is the case of the petitioner that subsequently by Resolution dated 10th August 1993 the Deputy Secretary, Labour and Employment Department of Government of Gujarat unilaterally and without giving any opportunity to the petitioner had passed a resolution withdrawing the Resolution dated 13th May 1991 by which the exemption was granted in favour of the petitioner and therefore according to the petitioner as the impugned resolution dated 10th August 1993 withdrawing the exemption granted in favour of the petitioner from appearing in "Pre-service Examination" is passed behind the back of the petitioner, without giving opportunity of hearing to the petitioner, and in violation of the principles of natural justice the same requires to be quashed and set aside. No affidavit-in-reply is filed on behalf of the respondents. Today, when the Special Civil Application is called out, the ld. advocate appearing on behalf of the petitioner, Mr. HJ Nanavati has submitted that the petitioner has already retired in the year 2003 and therefore as such the petition has become infructuous and/or academic. From the bare reading of the impugned resolution dated 10th August 2003 and the averments made in the petition, the said resolution dated 10th August 2003 is not sustainable as the same is passed in flagrant violation of principles of natural justice and without giving opportunity to the petitioner. However, in view of the fact that the petitioner has already retired, this Court is not going into the merits of the case and dispose of the present Special Civil Application as having become infructuous. Accordingly, the present Special Civil Application is disposed of. Rule is discharged with no order as to costs.

rmr. [M.R. Shah, J.]